

Patent  
51306/805A. § 41.202(a)

It is submitted that the prior Request for Interference provided sufficient showing for § 41.202(a) subparagraphs (1), (2), (3), (5) and (6). Additional information is set forth below as to subparagraph (4):

§ 41.202(a)(4)-- Why the present applicant will prevail on priority

The priority dates for the present application and Application Ser. No. 10/061,381 are the same day: February 1, 2002. Applicants assert and will prove a date of actual reduction to practice and a date of conception prior to both February 1, 2002 (the priority date of Application Ser. No. 10/061,381) and prior to January 23, 2002 (the purported execution date of the inventor declaration for Application Ser. No. 10/061,381) and thus will prevail on priority.

B. § 41.202(d)Requirement to show priority under 35 U.S.C. 102(g)

Section § 41.202(d) provides:

"When an applicant has an earliest constructive reduction to practice ~~that is later~~ than the apparent earliest constructive to practice for a patent or patent application claiming interfering subject matter, the applicant must show why it would prevail on priority.

The earliest constructive reduction to practice of the present application is February 1, 2002 ~~which is not later~~ than the apparent earliest constructive to practice of February 1, 2002 for application Ser. No. 10/061,381 and thus Show Priority requirement of Section § 41.202(d) does not apply.

Patent  
51306/805

C. § 41.202(e)

Sufficiency of showing

Section 41.202(e) only specifies the sufficiency of the showing under Section 41.202(d). Since Section 41.202(d) does not apply here, no additional showing under subparagraph (e) is required.

D. Conclusion

It is submitted that Applicants have complied with the requirements of Section 41.202 to provoke an interference with Application Ser. No. 10/061,381.

It is requested that the Examiner contact the undersigned attorney if any additional information is required or if it is determined that a telephone conference on the matter would be useful.

Respectfully submitted,

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Patent  
51306/805

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